IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 14523 of 1994

Between:
Kamala Bai W/o.Sridhar Vaman Naik
Rep.by her G.P.A.Holder Srikrishna Govinda Naik,
S/o.G.K.Naik, aged 29 years
Occ:Business R/o.Barkatpura,Hyderabad.

..... PETITIONER

AND

1 The Municipal Corporation of Hyderabad,
Rep.by its Commissioner, Hyderabad.
2 The Chief City Planner,
Municipal Corporation of Hyderabad, Hyderabad.
3 The Engineer-in-Chief, R & B Dept.,
Erram Manzil Colony, Hyderabad.
4 The Executive Engineer, Central Buildings Division
A.C.Guards, Hyderabad.
5 The Assistant Engineer, R & B,
Greenlands Hyderabad.

...RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents herein especially respondents 3 to 5 herein, in taking steps to take law into their hands and encroaching upon the petitioner's land, without following the mandatory procedure established under law or under any other Act, as arbitrary, void and ab-initio, and may be further directed NOT to interfere with the possession, take possession, raise constructions, if any in the land bearing Sy.No.213,214,216 and 219 admeasuring about 18 acres of petitioners land situated at Khairatabad (V),Golconda Mandal, Hyderabad, District and pass such other order or orders.

For the Petitioner:MR.Y.RAMA RAO

For the Respondent No.: G.P. for Roads and Buildings.

The Court Made the Following :

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ORDER :

The petitioner is allegedly the owner of the land admeasuring about Acs.18-00 in Survey Nos.213, 214, 216 and 219 situated at Khairatabad Village, Golconda Mandal, Hyderabad. It appears, among the joint owners, there was a dispute which ultimately resulted in the Court of I Additional Chief Judge, City Civil Court, Secunderabad, passing a decree for partition in O.S.No.86 of 1972 based on a compromise. The petitioner claims 1/5th share by reason of the decree dated 7-3-1973. Be that as it is, she alleges that respondents 3 to 5 encroached upon her land without initiating any acquisition proceedings and started digging to an extent of one yard. It appears that some of the family members have filed W.P.No.5291 of 1993 before this Court for a writ of mandamus directing the Municipal authorities not to sanction a layout or building permit in favour of the petitioner. The petitioner, therefore, contends that the matter is sub-judice and the respondents could not have encroached upon the land without due process of law. This Court, while admitting the writ petition on 10-8-1994, by order of even date made in W.P.M.P.No.17803 of 1994, passed interim orders directing the respondents not to interfere with the possession.

A counter affidavit is filed by fourth respondent opposing the writ petition. It is stated that the land in Survey No.214/1 at Khairatabad, Hyderabad, which is adjacent to the lands in Survey Nos.213, 214, 216 and 219, is a Government land, which was acquired for construction of quarters for Secretaries and Deputy Secretaries. The said Government land is part of TS.Nos.3/1, 3/2, 4, 7, 16, 17/1, 17/2 and 18 of Block 'B' inward No.91 of Khairatabad village, Hyderabad.

After hearing the learned Government Pleader for Roads and Buildings, I am satisfied that the writ petition is filed without any factual basis and it is made clear that if the petitioner apprehends any interference by third parties, it shall be open to her to approach the Civil Court and obtain appropriate injunction. In this writ petition, no relief can be granted to the petitioner.

The writ petition, for the above reasons, is dismissed. But no order as to costs.

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(V.V.S. RAO, J.)

23-06-2004.
Msr.

..... ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner, Municipal Corporation of Hyderabad,
Hyderabad.
2 The Chief City Planner,
Municipal Corporation of Hyderabad, Hyderabad.
3 The Engineer-in-Chief, R & B Dept.,
Erram Manzil Colony, Hyderabad.
4 The Executive Engineer, Central Buildings Division
A.C.Guards, Hyderabad.
5 The Assistant Engineer, R & B,
Greenlands Hyderabad.

6.2CCs to G.P. for Roads and Buildings,
High Court of A.P., Hyderabad.
7.2CD copies

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.14523 of 1994

Dt.23-06-2004.
(Msr)